

Terms of Service

NSIGNIA® is the registered trade name of Webster Marketing Solutions, Ltd. (WMS), an Ohio Limited Liability Corporation.

These Terms of Service (TOS) govern your access and use of the nsigniadesign.com website, as well as provisions of products and services offered by WMS. By using this website or ordering any of the products or services offered by WMS, you (Client) are agreeing to be bound by the terms set forth in these TOS.

1. General Definitions

As used herein and throughout these TOS: 1.1 Agreement means the entire content of this Basic Terms of Service document, the Proposal document(s), together with any other Supplements designated below, together with any exhibits, schedules or attachments hereto. 1.2 Client Content means all materials, information, photography, writings and other creative content provided by Client for use in the preparation of and/or incorporation in the Deliverables. 1.3 Copyright means the property rights in original works of authorship, expressed in a tangible medium of expression, as defined and enforceable under U.S. Copyright Law. 1.4 Deliverables means the services and work product specified in the Proposal to be delivered by WMS to Client, in the form and media specified in the Proposal. 1.5 Preliminary Works means all artwork including, but not limited to, concepts, sketches, visual presentations, or other alternate or preliminary designs and documents developed by Designer and which may or may not be shown and or delivered to Client for consideration but do not form part of the Final Art. 1.6 Project means the scope and purpose of the Client's identified usage of the work product as described in the Proposal. 1.7 Services means all services and the work product to be provided to Client by Designer as described and otherwise further defined in the Proposal. 1.8 Third Party Materials means proprietary third party materials which are incorporated into the Final Deliverables, including without limitation stock photography or illustration. 1.9 Trademarks means trade names, words, symbols, designs, logos or other devices or designs used in the Final Deliverables to designate the origin or source of the goods or services of Client.

2. Payment of Invoices

2.1 All invoices are due and payable within 15 days of issue. A monthly service charge of 10% of the balance due or \$10.00, whichever is greater, is payable on all overdue balances greater than \$50.00. Payments will be credited first to late payment charges and next to the unpaid balance. Client shall be responsible for all collection or legal fees necessitated by lateness or default in payment. WMS reserves the right to withhold delivery and any transfer of ownership of any current work if accounts are not current or overdue invoices are not paid in full. All grants of any license to use or transfer of ownership of any intellectual property rights under these TOS are conditioned upon receipt of payment in full which shall be inclusive of any and all outstanding Additional Costs, Taxes, Expenses, and Fees, Charges, or the costs of Changes. 2.2 Subscription Service ("Subscription") fees for services including, but not limited to, Career Development Coaching, Small Business Coaching, and Real Estate Sales Coaching are due on the date Client enrolls in Subscription or at the end of any free trial period, whichever is later ("Billing Date") and will be billed automatically to Client's credit card on or around the same day of the month as the Billing Date ("Renewal Payment Date") in the cadence established in the Subscription. For example, if Client enrolls in a three-month Subscription on January 1st with a 14-day free trial period, the Billing Date would be January 15th and the Renewal Payment Dates would be April 15th, July 15th, October 15th, and so on. Automatic payments will continue on that cadence unless otherwise stated in these TOS. 2.3 If Client cancels Subscription, WMS must be notified no later than seven (7) days before the next Renewal Payment Date. In the event of Subscription cancellation, Subscription will remain active until the day prior to the next Renewal Payment Date.

3. Accreditation and Promotion

All displays or publications of the Deliverables shall bear accreditation and/or copyright notice in WMS's name in the form, size and location as incorporated by WMS in the Deliverables, or as otherwise directed by WMS. Client grants WMS a perpetual, irrevocable, world-wide, royalty-free and right and license to modify, reproduce, publish, disclose, or exploit and display the Deliverables in WMS's portfolios and websites, and in galleries, design periodicals and other media or exhibits for the purposes of recognition of creative excellence or professional advancement, and to be credited with authorship of the Deliverables in connection with such uses. Either party, subject to the other's reasonable approval, may describe its role in relation to the Project and, if applicable, the services provided to the other party on its website and in other promotional materials, and, if not expressly objected to, include a link to the other party's website.

4. Confidential Information

Each party acknowledges that in connection with this Agreement it may receive certain confidential or proprietary technical and business information and materials of the other party, including without limitation Preliminary Works ("Confidential Information"). Each party, its agents and employees shall hold and maintain in strict confidence all Confidential Information, shall not disclose Confidential Information to any third party, and shall not use any Confidential Information except as may be necessary to perform its obligations under the Proposal except as may be required by a court or governmental authority. Notwithstanding the foregoing, Confidential Information shall not include any information that is in the public domain or becomes publicly known through no fault of the receiving party, or is otherwise properly received from a third party without an obligation of confidentiality.

5. Relationship of the Parties

5.1 Independent Contractor. WMS is an independent contractor, not an employee of Client or any company affiliated with Client. WMS shall provide the Services under the general direction of Client, but WMS shall determine, in WMS's sole discretion, the manner and means by which the Services are accomplished. This Agreement does not create a partnership or joint venture and neither party is authorized to act as agent or bind the other party except as expressly stated in this Agreement. WMS and the work product or Deliverables prepared by WMS shall not be deemed a work for hire as that term is defined under Copyright Law. All rights, if any, granted to Client are contractual in nature and are wholly defined by the express written agreement of the parties and the various terms and conditions of this Agreement. 5.2 Agents. WMS shall be permitted to engage and/or use third party designers or other service providers as independent contractors in connection with the Services ("Design Agents"). Notwithstanding, WMS shall remain fully responsible for such Design Agents' compliance with the various terms and conditions

of this Agreement. 5.3 No Exclusivity. The parties expressly acknowledge that this Agreement does not create an exclusive relationship between the parties. Client is free to engage others to perform services of the same or similar nature to those provided by WMS, and Designer shall be entitled to offer and provide design services to others, solicit other clients and otherwise advertise the services offered by WMS.

6. Warranties and Representations

6.1 By Client. Client represents, warrants and covenants to WMS that (a) Client owns all right, title, and interest in, or otherwise has full right and authority to permit the use of the Client Content, (b) to the best of Client's knowledge, the Client Content does not infringe the rights of any third party, and use of the Client Content as well as any Trademarks in connection with the Project does not and will not violate the rights of any third parties, (c) Client shall comply with the terms and conditions of any licensing agreements which govern the use of Third Party Materials, and (d) Client shall comply with all laws and regulations as they relate to the Services and Deliverables. 6.2 By WMS (a) WMS hereby represents, warrants and covenants to Client that WMS will provide the Services identified in the Agreement in a professional and workmanlike manner and in accordance with all reasonable professional standards for such services. (b) WMS further represents, warrants and covenants to Client that (i) except for Third Party Materials and Client Content, the Final Deliverables shall be the original work of WMS and/or its independent contractors, (ii) in the event that the Final Deliverables include the work of independent contractors commissioned for the Project by WMS, WMS shall have secure agreements from such contractors granting all necessary rights, title, and interest in and to the Final Deliverables sufficient for WMS to grant the intellectual property rights provided in this Agreement, and (iii) to the best of WMS's knowledge, the Final Art provided by WMS and WMS's subcontractors does not infringe the rights of any party, and use of same in connection with the Project will not violate the rights of any third parties. In the event Client or third parties modify or otherwise use the Deliverables outside of the scope or for any purpose not identified in the Proposal or this Agreement or contrary to the terms and conditions noted herein, all representations and warranties of WMS shall be void. (c) Except for the express representations and warranties stated in this agreement, WMS makes no warranties whatsoever, WMS explicitly disclaims any other warranties of any kind, either express or implied, including but not limited to warranties of merchantability or fitness for a particular purpose or compliance with laws or government rules or regulations applicable to the project.

7. Indemnification / Liability

7.1 By Client. Client agrees to indemnify, save and hold harmless WMS from any and all damages, liabilities, costs, losses or expenses arising out of any claim, demand, or action by a third party arising out of any breach of Client's responsibilities or obligations, representations or warranties under this Agreement. Under such circumstances WMS shall promptly notify Client in writing of any claim or suit; (a) Client has sole control of the defense and all related settlement negotiations; and (b) WMS provides Client with commercially reasonable assistance, information and authority necessary to perform Client's obligations under this section. Client will reimburse the reasonable out-of-pocket expenses incurred by WMS in providing such assistance. 7.2 By WMS. Subject to the terms, conditions, express representations and warranties provided in this Agreement, WMS agrees to indemnify, save and hold harmless Client from any and all damages, liabilities, costs, losses or expenses arising out of any finding of fact which is inconsistent with WMS's representations and warranties made herein, except in the event any such claims, damages, liabilities, costs, losses or expenses arise directly as a result of gross negligence or misconduct of Client provided that (a) Client promptly notifies WMS in writing of the claim; (b) WMS shall have sole control of the defense and all related settlement negotiations; and (c) Client shall provide WMS with the assistance, information and authority necessary to perform WMS's obligations under this section. Notwithstanding the foregoing, WMS shall have no obligation to defend or otherwise indemnify Client for any claim or adverse finding of fact arising out of or due to Client Content, any unauthorized content, improper or illegal use, or the failure to update or maintain any Deliverables provided by WMS. 7.3 Limitation of Liability. The services and the work product of WMS are sold "as is." In all circumstances, the maximum liability of WMS, its directors, officers, employees, design agents and affiliates ("WMS Parties"), to client for damages for any and all causes whatsoever, and client's maximum remedy, regardless of the form of action, whether in contract, tort or otherwise, shall be limited to the net profit of WMS. In no event shall WMS be liable for any lost data or content, lost profits, business interruption or for any indirect, incidental, special, consequential, exemplary or punitive damages arising out of or relating to the materials or the services provided by WMS, even if WMS has been advised of the possibility of such damages, and notwithstanding the failure of essential purpose of any limited remedy.

8. General

8.1 Notices. All notices to be given shall be transmitted in writing either by electronic mail (e-mail) to help@webstermarketing.us or by United States Postal Service to Webster Marketing Solutions, ATTN: Zachary Snelling, 161 E 213th St, Euclid OH 44123, unless notification of change of address is given in writing. Notice shall be effective upon receipt or in the case of email, upon confirmation of receipt. 8.2 No Assignment. Neither party may assign, whether in writing or orally, or encumber its rights or obligations under this Agreement or permit the same to be transferred, assigned or encumbered by operation of law or otherwise, without the prior written consent of the other party. 8.3 Force Majeure. WMS shall not be deemed in breach of this Agreement if WMS is unable to complete the Services or any portion thereof by reasons outside of WMS's immediate control, including but not limited to, acts of nature, local, state, or national emergency. Upon occurrence of any Force Majeure event, WMS shall give notice to Client of its inability to perform or of delay in completing the Services and shall propose revisions to the schedule for completion of Services. 8.4 Governing Law and Dispute Resolution. The formation, construction, performance, and enforcement of this Agreement shall be in accordance with the laws of the United States and the state of Ohio. In the event of a dispute arising out of this Agreement, the parties agree to attempt to resolve any dispute by negotiation between the parties. If they are unable to resolve the dispute, either party may commence mediation and/or binding arbitration through the American Arbitration Association, or other forum mutually agreed to by the parties. The prevailing party in any dispute resolved by binding arbitration or litigation shall be entitled to recover its attorneys' fees and costs. In all other circumstances, the parties specifically consent to the local, state and federal courts located in the state of Ohio. The parties hereby waive any jurisdictional or venue defenses available to them and further consent to service of process by mail. Client acknowledges that WMS shall have no adequate remedy at law in the event Client uses the deliverables in any way not permitted hereunder, and hereby agrees that WMS shall be entitled to equitable relief by way of temporary and permanent injunction, and such other and further relief at law or equity as any arbitrator or court of competent jurisdiction may deem just and proper, in addition to any and all other remedies provided for herein. 8.5 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect and the invalid or unenforceable provision shall be replaced by a valid or enforceable provision.

9. Rights to Deliverables

9.1 Client Content. Client Content, including all pre-existing Trademarks, shall remain the sole property of Client or its respective suppliers, and Client or its suppliers shall be the sole owner of all rights in connection therewith. Client hereby grants to WMS a nonexclusive, nontransferable

license to use, reproduce, modify, display and publish the Client Content solely in connection with WMS's performance of the Services and limited promotional uses of the Deliverables as authorized in this Agreement. 9.2 Third Party Materials. All Third Party Materials are the exclusive property of their respective owners. If the cost of Third Party Materials is included as part of the design proposal, WMS shall retain any non-transferable licenses as set forth by the respective owners of the Third Party Materials. Client hereby indemnifies, saves and holds harmless WMS from any and all damages, liabilities, costs, losses or expenses arising out of any claim, demand, or action by a third party arising out of Client's failure to obtain copyright, trademark, publicity, privacy, defamation or other releases or permissions with respect to materials included in the Project. 9.3 Preliminary Works. WMS retains all rights in and to all Preliminary Works. 9.4 Trademarks. Upon completion of the Services and expressly conditioned upon full payment of all fees, costs and out-of-pocket expenses due, WMS assigns to Client all ownership rights, including any copyrights, in and to any artworks or designs comprising the works created by WMS for use by Client as a Trademark. WMS shall cooperate with Client and shall execute any additional documents reasonably requested by Client to evidence such assignment. Client shall have sole responsibility for ensuring that any proposed trademarks or Final Deliverables intended to be a Trademark are available for use in commerce and federal registration and do not otherwise infringe the rights of any third party. Client hereby indemnifies, saves and holds harmless WMS from any and all damages, liabilities, costs, losses or expenses arising out of any claim, demand, or action by any third party alleging any infringement arising out of Client's use and/or failure to obtain rights to use or use of the Trademark.

10. Service-specific Terms and Conditions

10.1 Print Services. (a) The printed work, and the arrangement or brokering of the print services by WMS, shall be deemed in compliance with this Agreement if the final printed product is within the acceptable variations as to kind and quantity. (b) Prices are subject to change with or without notice. (c) Prices of print materials displayed on this website are before any applicable state taxes and/or shipping costs. Your final invoice will reflect these costs, if applicable. 10.2 Digital Services. (a) Browser Compatibility: Websites will be designed in accordance with current standards and will not be tested in browsers that are outdated or do not follow W3C standards. (b) E-Commerce: Client is solely responsible for complying with any laws, local, state, or federal, pertaining to taxes and tariffs, and hold harmless, protect, and defend WMS from any claim, suit, penalty, tax, or tariff arising from the Client's use of Internet electronic commerce. (c) Domain Names and Hosting: Unless otherwise provided in the Proposal, Client is responsible for the purchase of and/or maintenance of domain names and hosting services. (d) Moral Turpitude: WMS reserves the right to refuse or cancel service in accordance with the Termination section of this Agreement for any websites that are morally, socially, or ethically unsound at the discretion of WMS. (e) Domain names, hosting services, and other internet products are sold by WMS through Wild West Domains, LLC, a subsidiary of GoDaddy.com, LLC (GoDaddy). While WMS is compensated as a reseller by GoDaddy, WMS is not responsible for the availability, reliability, or support of these products. Please review the Terms of Use provided by GoDaddy when making purchases of internet products, including but not limited to, domain names, hosting and email plans, internet marketing, and website builders.

11. Refusal of Service

WMS reserves the right to refuse service to any Client who directs the creation of Deliverables that we determine, in our sole discretion, promote intolerance, hate, discrimination, harassment, or slander on the basis of race, religion, sex, gender, gender identity, national origin, ethnicity, sexual orientation, disability, or age against any individual, group, cohort, or organization. WMS reserves the right to refuse service to any Client who directs the creation of Deliverables that contain pornography, encourages the exploitation of children, or any activity related to the proliferation of child sexual abuse material (CSAM), contains copyrighted or trademarked materials of others or infringes on the intellectual rights of others, defames or slanders others, encourages or promotes terrorism and/or other illegal activities, contains illegal content for any other reason that we, in our sole discretion, decide.

12. Compliance with Laws

WMS shall use commercially reasonable efforts to ensure that all Final Deliverables shall be designed to comply with the known relevant rules and regulations. Client, upon acceptance of the Deliverables, shall be responsible for conformance with all laws relating to the transfer of software and technology. WMS shall use commercially reasonable efforts to ensure that all Final Deliverables shall be designed to comply with the applicable rules and regulations such as the Americans with Disabilities Act ("ADA"). However, WMS is not an expert and makes no representations or warranties in connection with compliance with such rules, codes or regulations. The compliance of the Final Deliverables with any such rule, codes or regulations shall be the responsibility of Client. WMS shall use commercially reasonable efforts to ensure the suitability and conformance of the Final Deliverables.

13. Jurisdiction

These TOS and the relationship between you and WMS shall be governed by the laws of the State of Ohio, without regard to its conflict of law provisions. If any provision of these TOS is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of these TOS remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or these TOS must be filed within one (1) year after such claim or cause of action arose or be forever barred.

14. Arbitration

Any dispute or claim relating to your use of the Service, or to any products or services sold or distributed by WMS will be resolved by binding arbitration, rather than in court, except that you must assert claims in small claims court if your claims qualify. The Federal Arbitration Act and federal arbitration law apply to this agreement.

To begin an arbitration proceeding, you must send a letter to WMS requesting arbitration and describing your claim. The arbitration will be conducted by the American Arbitration Association (AAA) under its rules, including the AAA's Supplementary Procedures for Consumer-Related Disputes. The AAA's rules are available at www.adr.org. Payment of all filing, administration and arbitrator fees will be governed by the AAA's rules. We will advance all fees of the arbitration except for the then current amount of the filing fee in Cuyahoga County Superior Court which you must pay. You may choose to have the arbitration conducted by telephone, based on written submissions, or in person in Cuyahoga County, Ohio or at another mutually agreed location.

We each agree that any dispute resolution proceedings will be conducted only on an individual basis and not in a class, consolidated or representative action. If for any reason a claim proceeds in court rather than in arbitration we each waive any right to a jury trial. We also both agree that you or we may bring suit in court to enjoin infringement or other misuse of intellectual property rights.